OKIGHT --

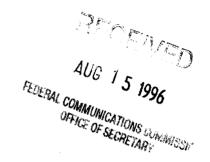
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WALTER SONNENFELDT & ASSOCIATES

4904 Ertter Drive Rockville, Maryland 20852 301-770-3299 Telecopier: 301-468-5953

EX PARTE OR LATE FILED

August 15, 1996



Mr. William F. Caton Acting Secretary Federal Communications Commission Room 222 1919 M Street, N.W. Washington, D.C. 20554

> Re: Notice of Ex Parte Presentation ET Docket No. 95-183 RM-8553

Dear Mr. Caton:

On August 14, 1996, representatives of BizTel, Inc. ("BizTel") attended a meeting with Commission staff organized by the Chief of the Wireless Telecommunications Bureau. The main topic of the meeting was questions at issue in the above-referenced rulemaking relating to Fixed Service and Fixed-Satellite Service spectrum requirements in the 37.5 - 40.0 GHz band. Proposed Fixed Service construction requirements, and the interim processing policy adopted in the above-referenced rulemaking for pending Fixed Service applications, were also on the agenda. BizTel was represented by its president Don Franco, its chairman and CEO Mark Foster, and its undersigned counsel. The Commission was represented by the officials listed below on the distribution list for this submission.

In accordance with Section 1.1206(a)(1) of the Commission's Rules, attached hereto are copies of presentation slides used in BizTel's presentation. Pursuant to Section 1.1206(a)(2) of the Commission's Rules, one copy of this letter is being submitted herewith. Copies of this letter are also being simultaneously delivered to the Commission representatives listed below that were in attendance at the above-described meeting.

No of Copies roofd 0+1 List ABCCE Mr. William F. Caton August 15, 1996 Page 2

Kindly direct any inquiries relating to this submission to the undersigned.

Very truly yours,

Walter H. Sonnenfeldt Counsel to BizTel, Inc.

cc: Distribution

<u>Distribution</u>

Michele Farguhar, WTB
Robert McNamara, WTB
Thomas P. Stanley, WTB
David Horowitz, WTB
Robert James, WTB
Susan Magnotti, WTB
D'Wana Speight, WTB
Jennifer Burton, WTB
Nancy Markowitz, WTB
Ruth Milkman, IB
Karl Kensinger, IB
Steve Sharkey, OET

BizTel, Inc.

ISSUES AFFECTING UTILIZATION OF THE 37 GHz & 39 GHz BANDS

Presentation To The Wireless Telecommunications Bureau Federal Communications Commission

August 14, 1996

CO-FREQUENCY FS/FSS SHARING IS NOT FEASIBLE

- No evidence on record demonstrates feasibility
- Ubiquitous blanket-authorized deployments in both services
- Temporary international FSS PFD Limits are inadequate
- FS will interfere into FSS earth station receivers
- FS/FSS co-frequency sharing would require drastic unjustifiable restrictions

FSS REQUIREMENTS MUST BE ADDRESSED BEFORE AUCTIONS

- Consolidate Motorola Petition for Rulemaking
- Develop a complete record on sharing issues
- Protect substantial incumbent investment
- Remove spectrum valuation uncertainty

SOLUTION:

- Do not license FSS in the 39 GHz band
 - Removes FS uncertainty
 - No measurable impact on FSS
- If a requirement is demonstrated, license FSS in a portion of the 37 GHz band
 - No incumbent FS operations
 - Allows substantial FSS capacity
 - Comports with international FSS allocation
 - Avoids 28 GHz-type turmoil

BUILDOUT RULES

- Must be reasonable
 - Based on actual deployment considerations
 - Milestones must be realistic
- Must be uniformly applied
 - Avoid punitive treatment of incumbent 39 GHz companies
 - Core LEC business at stake
 - Creates level field for LEC competition
 - Discourages diversion or warehousing
 - Spectrum caps will defeat not foster competition

SOLUTION:

- "Substantial service is the proper uniform standard"
 - Addresses all deployment options
 - Takes account of emerging service demand
- Five & Ten Year Milestones
- Permit alternative showings to demonstrate reasonable progress
 - Minimum path circuits per million POPs
 - Minimum BPS per million POPS

INTERIM PROCESSING POLICIES ARE INAPPROPRIATE

- Punitive treatment of incumbents is unwarranted
- Millions invested in reliance on Commission Rules
- Viable facilities-based LEC competition threatened
- Contravenes Communications Act
- Reconsideration pending since January 16, 1996

SOLUTION:

- Vacate retroactive amendment freeze & allow conflict resolutions
- Use Application freeze date as operative cut-off date for competing applications
- Permit service area/channel modifications of existing authorizations within a 100 x 100 mile service area
- Modify expiration date of all existing 39 GHz licenses to ten years from date of authorization